

1 Frances Arroyo
2 Los Angeles Legal Advocates
3 1025 W 190th St
4 Suite 400
5 Gardena, CA 90248

6 Natalie Renee Shepherd
7 Of Counsel
8 (805) 907-5309
9 NatalieReneeShepherd@gmail.com

10 *Attorneys for Petitioner*

11 UNITED STATES DISTRICT COURT
12 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

13 YULIANA TAHINA ALEMAN GONZALEZ

14 Petitioner,

15 vs.

16 CHRISTOPHER LAROSE, WARDEN OF
17 OTAY MESA DETENTION CENTER;

18 PATRICK DIVVER, DIRECTOR OF SAN
19 DIEGO FIELD OFFICE, U.S. IMMIGRATION
20 AND CUSTOMS ENFORCEMENT;

21 KRISTI NOEM, SECRETARY OF THE U.S.
22 DEPARTMENT OF HOMELAND SECURITY;
23 AND

24 PAM BONDI, ATTORNEY GENERAL OF
25 THE UNITED STATES,

26 IN THEIR OFFICIAL CAPACITIES,

27 Respondents
28

PETITION FOR WRIT OF HABEAS
CORPUS

Challenge to Unlawful Incarceration Under
Color of Immigration Detention Statutes;
Request for Declaratory and Injunctive Relief

Case No. **'26CV3449 DMS DEB**

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1
2 1. This habeas petition challenges the unlawful re-detention of a young humanitarian
3 parolee who lived freely in the United States after the government had already paroled her into
4 the community, before Immigration and Customs Enforcement (“ICE”) abruptly revoked her
5 liberty without any meaningful individualized custody determination.

6 2. Petitioner Yuliana Tahina Aleman Gonzalez is a 25-year-old native and citizen of
7 Nicaragua. DHS paroled Petitioner into the United States at Miami International Airport on or
8 about August 14, 2023, as a Nicaraguan Humanitarian Parolee, with authorization to remain in
9 the United States for a temporary period not to exceed June 12, 2025. After DHS paroled
10 Petitioner into the United States, she lived freely in the community for nearly two years.
11 Petitioner has no criminal history and no prior immigration detention history.

12 3. On or about May 27, 2026, immigration officers re-detained Petitioner in the
13 interior of the United States after she left work. She was not arrested at a port of entry. She was
14 not detained while seeking admission into the United States. She was arrested after DHS had
15 already paroled her into the United States and allowed her to live in the community.

16 4. DHS then issued a Notice to Appear placing Petitioner in removal proceedings
17 under section 240 of the Immigration and Nationality Act. Although the Notice to Appear
18 confirms that DHS previously paroled Petitioner into the United States, DHS classified her as an
19 “arriving alien” and charged her under INA § 212(a)(7)(A)(i)(I).

20 5. The Constitution does not permit that result. Once the government releases a
21 person from physical custody and allows her to live in the community, that liberty becomes a
22 protected interest that cannot be revoked absent due process. Here, although Petitioner appeared
23 before the Immigration Judge for custody redetermination, the court never reached danger, flight
24 risk, or any ordinary custody factors. Instead, the court stopped at the threshold classification
25 issue and treated Petitioner as categorically subject to mandatory detention.

26 6. This case also presents a statutory problem. DHS may not revive border-detention
27 authority after paroling a person into the United States and allowing her to reside at liberty in the

28 PETITION FOR WRIT OF HABEAS CORPUS

1 community while proceedings remain pending. Once Petitioner was paroled and permitted to live
2 in the community, her custody posture fell under 8 U.S.C. § 1226, not § 1225. Yet when
3 Petitioner sought a custody redetermination, the Immigration Judge denied bond, concluding that
4 Petitioner's parole was revoked or terminated and that she reverted to applicant-for-admission
5 status subject to mandatory detention under INA § 235(b)(2)(A).

6 7. Petitioner's continued incarceration serves no legitimate government interest that
7 could not be addressed through the ordinary custody process. Petitioner has no criminal history,
8 no prior immigration detention history, and no record of noncompliance with any reporting or
9 release condition. Nothing in the record reflects any individualized finding that she poses a
10 danger to the community or a flight risk.

11 8. DHS's actions represent a stark departure from its own prior conduct. After
12 previously paroling Petitioner into the United States, the government allowed her to remain at
13 liberty in the community for nearly two years. Petitioner alleges there was no material change in
14 circumstances justifying renewed incarceration. Yet Respondents now detain her under a
15 mandatory-detention framework and have denied her any meaningful individualized custody
16 determination.

17 9. Because DHS revoked Petitioner's liberty without the process the Constitution
18 requires and because the Immigration Court never provided a meaningful individualized custody
19 determination, habeas relief is warranted. Immediate release is required.

20 21 JURISDICTION & VENUE

22 10. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in
23 custody under the authority of the United States and seeks a writ of habeas corpus. This Court
24 also has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution,
25 laws, and treaties of the United States, and under 5 U.S.C. §§ 701–706 because Petitioner
26 challenges agency action that is arbitrary, capricious, and not in accordance with law.

27 28 PETITION FOR WRIT OF HABEAS CORPUS

11. This Court has authority to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201–2202.

12. Neither 8 U.S.C. §§ 1252(b)(9) nor 1252(g) bar this Court’s review.

13. Section 1252(b)(9) is a “zipper clause” that channels review of final orders of removal to the courts of appeals; it does not apply where, as here, no final removal order exists and the petitioner challenges only the statutory authority under which she is detained. *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999). As the Supreme Court explained in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), detention claims that raise “questions of law”—including whether statutory provisions require detention without a bond hearing—do not “arise from” removal proceedings and therefore fall outside § 1252(b)(9). *Id.* at 292–95. The Ninth Circuit has repeatedly held that §§ 1252(a)(5) and (b)(9) do not preclude district-court review of claims that are “independent of or collateral to the removal process,” including challenges to unlawful or prolonged immigration detention. *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031–32 (9th Cir. 2016); *Martinez v. Napolitano*, 704 F.3d 620, 622 (9th Cir. 2012). Every recent decision in this District addressing similar § 1225/§ 1226 misclassification and post-release detention issues has rejected the government’s § 1252(b)(9) argument for this same reason. See, e.g., *Esquivel Pacheco v. LaRose*, No. 3:25-cv-2421-JO-AHG, 2026 WL 242300, at *3–4 (S.D. Cal. Jan. 29, 2026); *Mohammadi v. LaRose*, No. 3:25-cv-3450-JES-BJW, 2025 U.S. Dist. LEXIS 266027, at *4 (S.D. Cal. Dec. 26, 2025); *Chiapot Perez v. Noem*, No. 3:25-cv-3161-JES-VET, slip op. at 2–3 (S.D. Cal. Nov. 21, 2025); *Soza Velasquez v. LaRose*, No. 3:25-cv-3137-JLS-MSB, slip op. at 1–2 (S.D. Cal. Nov. 21, 2025); *Panohaya Mediana v. Divver*, No. 3:26-cv-01760-GPC-DEB, slip op. at 2–3 (S.D. Cal. Mar. 25, 2026); *Lozada v. LaRose*, No. 25cv3614-LL-KSC, 2026 U.S. Dist. LEXIS 12973 (S.D. Cal. Jan. 23, 2026).

14. Section 1252(g) likewise poses no bar. The Supreme Court has held that § 1252(g) applies only to three discrete discretionary actions—commencing proceedings, adjudicating cases, and executing removal orders—and does not cover legal challenges to the scope of DHS’s detention authority. *Reno*, 525 U.S. at 482; *Jennings*, 583 U.S. at 294–96.

PETITION FOR WRIT OF HABEAS CORPUS

1 Petitioner challenges none of those actions. Her claim is a “purely legal question” that does not
2 implicate any exercise of prosecutorial discretion, and district courts retain jurisdiction over such
3 claims. *United States v. Hovsepian*, 359 F.3d 1144, 1155 (9th Cir. 2004); *Ibarra-Perez v. United*
4 *States*, No. 24-631, 2025 WL 2461663, at *6 (9th Cir. Aug. 27, 2025). Consistent with this
5 binding authority, courts in this district have repeatedly held that § 1252(g) does not bar review
6 of claims alleging detention under the wrong statutory provision. *Ruiz Yarleque*, 2025 WL
7 3043936, at 5–6; *Garcia*, 2025 WL 2986672, at 3; *Arrazola-Gonzalez*, 2025 WL 2379285, at 1;
8 *E.C.*, at 3. Accordingly, this Court has jurisdiction to hear and resolve this petition.

9 15. Venue is proper in the Southern District of California because Petitioner is
10 currently detained at the Otay Mesa Detention Center, located within this District. The
11 Immigration Judge’s written custody order expressly states that Petitioner is detained at the Otay
12 Mesa Detention Center in San Diego, California, which falls within the jurisdiction of the United
13 States District Court for the Southern District of California. See *Rumsfeld v. Padilla*, 542 U.S.
14 426, 443 (2004).

15 PARTIES

16 16. Petitioner YULIANA TAHINA ALEMAN GONZALEZ is a native and citizen of
17 Nicaragua who is currently detained at the Otay Mesa Detention Center. She is identified by A-
18 number 232-848-999.

19 17. Respondent CHRISTOPHER LAROSE is the Warden of the Otay Mesa Detention
20 Center, a detention facility under contract with ICE. As the immediate custodian with day-to-day
21 control over Petitioner’s physical detention, Warden LaRose is the proper respondent in this
22 habeas corpus action. He is sued in his official capacity.

23 18. Respondent PATRICK DIVVER is the Director of the San Diego Field Office of
24 U.S. Immigration and Customs Enforcement (“ICE”). He exercises authority over the detention
25 and removal of noncitizens in the San Diego region, including Petitioner.

1 19. Respondent KRISTI NOEM is the Secretary of the U.S. Department of Homeland
2 Security (“DHS”), the federal agency responsible for immigration enforcement and detention.
3 She is sued in her official capacity.

4 20. Respondent PAM BONDI is the Attorney General of the United States and the
5 head of the U.S. Department of Justice, which oversees the Executive Office for Immigration
6 Review (“EOIR”) and immigration judges. She is sued in her official capacity.

7
8 **FACTUAL BACKGROUND**

9 21. Petitioner Yuliana Tahina Aleman Gonzalez is a 25-year-old native and citizen of
10 Nicaragua. DHS paroled Petitioner into the United States at Miami International Airport on or
11 about August 14, 2023, as a Nicaraguan Humanitarian Parolee. Her parole authorized her to
12 remain in the United States for a temporary period not to exceed June 12, 2025.

13 22. Following that parole, Petitioner remained in the United States and lived in the
14 community for nearly two years.

15 23. During that time in the United States, Petitioner lived openly in the community
16 and worked. DHS allowed her to remain at liberty following its own affirmative parole
17 determination.

18 24. Petitioner has no criminal history. Petitioner also has no prior immigration
19 detention history. Nothing about her background suggests that she poses a danger to the
20 community, and nothing in the record reflects any individualized finding that she presents a
21 flight risk.

22 25. On or about May 27, 2026, immigration agents detained Petitioner in the interior
23 of the United States after she left work. According to Petitioner’s designated contact, Petitioner
24 was going to a gas station after work when officers began following her. The officers stopped
25 behind her, knocked on her window, asked for her identification, and asked to see her phone.

1 26. Petitioner did not resist. The officers reviewed her phone, including the map
2 application that was open and her text messages. The officers then ordered Petitioner out of the
3 car, handcuffed her, and took her to the detention facility.

4 27. Petitioner was not arrested at a port of entry. She was not detained while seeking
5 admission into the United States. She was arrested in the interior after DHS had already paroled
6 her into the United States and allowed her to live in the community.

7 28. Following Petitioner's detention, the Department of Homeland Security ("DHS")
8 issued Petitioner a Notice to Appear, placing her in removal proceedings under section 240 of the
9 Immigration and Nationality Act.

10 29. The Notice to Appear classifies Petitioner as an "arriving alien." However, the
11 same Notice to Appear confirms that Petitioner was previously paroled into the United States at
12 Miami International Airport on or about August 14, 2023, as a Nicaraguan Humanitarian Parolee,
13 with authorization to remain in the United States for a temporary period not to exceed June 12,
14 2025.

15 30. The Notice to Appear charges Petitioner under INA § 212(a)(7)(A)(i)(I), alleging
16 that she is an immigrant who, at the time of application for admission, was not in possession of
17 valid entry or travel documents.

18 31. Petitioner is currently detained at the Otay Mesa Detention Center.

19 32. After being returned to custody, Petitioner sought a custody redetermination
20 before the Immigration Court. On June 5, 2026, the Immigration Judge denied Petitioner's
21 request for a change in custody status.

22 33. The Immigration Judge did not deny custody redetermination based on any
23 individualized finding that Petitioner posed a danger to the community or a flight risk. Instead,
24 the Immigration Judge denied bond on the threshold legal conclusion that Petitioner's parole was
25 revoked or terminated and that she reverted to applicant-for-admission status subject to
26 mandatory detention under INA § 235(b)(2)(A).

27
28 PETITION FOR WRIT OF HABEAS CORPUS

1 34. In the written order, the Immigration Judge concluded that Petitioner applied for
2 admission, was paroled into the United States, and that her parole was subsequently revoked
3 pursuant to the charging document under 8 C.F.R. § 212.5(e)(2)(i). On that basis, the court
4 treated Petitioner as categorically ineligible for bond and did not reach the ordinary custody
5 questions of whether Petitioner presents a danger to the community or a flight risk.

6 35. The Immigration Judge's written order appears to state that Petitioner was paroled
7 into the United States on June 12, 2025. However, the Notice to Appear states that Petitioner was
8 paroled into the United States on or about August 14, 2023, and that June 12, 2025 was the date
9 her parole authorization expired.

10 36. Thus, Petitioner has never received any meaningful individualized custody
11 determination. No neutral adjudicator has found that she presents a danger to the community. No
12 neutral adjudicator has found that she presents a flight risk. Instead, after having previously been
13 paroled into the United States and permitted to live in the community for nearly two years,
14 Petitioner was returned to detention and categorically denied access to the ordinary custody
15 process because the Immigration Judge stopped at the threshold classification issue.

16 37. Petitioner's continued detention is not the product of any meaningful
17 individualized determination that confinement is necessary. Rather, Petitioner was previously
18 paroled into the United States, permitted to live in the community, and then re-detained without
19 any identified individualized finding that would justify renewed incarceration.

20 38. These facts reflect the unlawful revocation of a protected liberty interest. After
21 nearly two years of living in the community following DHS's prior parole determination,
22 Petitioner was abruptly returned to immigration detention and then denied meaningful custody
23 review because the Immigration Judge did not reach danger, flight risk, or any of the ordinary
24 custody factors.

LEGAL FRAMEWORK

Petitioner's Custody is Governed By 8 U.S.C. § 1226, Not § 1225

39. Federal immigration detention before a final order is governed by two separate statutory provisions, 8 U.S.C. §§ 1225 and 1226, which operate in “distinct and mutually exclusive spheres.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018); *Martinez v. Clark*, 36 F.4th 1219, 1227–29 (9th Cir. 2022).

40. Section 1225 applies to “aliens seeking admission”—that is, individuals in border or initial inspection/expedited-removal processing—and authorizes mandatory detention only during the limited period required for threshold inspection and credible fear review. *Jennings*, 583 U.S. at 303; *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 109–10 (2020). It is a border-processing statute.

41. By contrast, § 1226 applies to individuals already inside the United States who are “pending a decision on whether the alien is to be removed.” 8 U.S.C. § 1226(a); *Matter of E-R-M- & L-R-M-*, 25 I. & N. Dec. 520, 520 (BIA 2011). Under § 1226(a), the government “may continue to detain” but also “may release” a person on bond or conditional parole, and long-standing regulations guarantee access to a bond hearing before a neutral adjudicator. *Jennings*, 583 U.S. at 306; 8 C.F.R. §§ 236.1(c)(8), (d)(1).

42. These schemes cannot overlap: an individual cannot simultaneously be detained as a mandatory arriving alien under § 1225 and a discretionary detainee under § 1226. *Martinez*, 36 F.4th at 1227–29.

43. Petitioner’s posture falls on the § 1226 side of that statutory line. Petitioner was previously paroled into the United States on humanitarian parole and was thereafter permitted to live in the community for nearly two years. Her later seizure in May 2026 was therefore not continuous border-processing custody, but a re-detention after liberty in the community. Under those circumstances, DHS could not continue to rely on § 1225 as though Petitioner had remained in uninterrupted threshold-entry detention.

1 44. Courts addressing post-release immigration detention have repeatedly recognized
2 that once the government has released a noncitizen from an initial border-processing posture and
3 allowed that person to live in the community while proceedings continue, later detention is
4 governed by § 1226, not § 1225. See, e.g., *Esquivel Pacheco v. LaRose*, No. 3:25-cv-2421-JO-
5 AHG, 2026 WL 242300 (S.D. Cal. Jan. 29, 2026); *Mohammadi v. LaRose*, No. 3:25-cv-3450-
6 JES-BJW, 2025 WL 3857491 (S.D. Cal. Dec. 26, 2025); *Salcedo Aceros v. Kaiser*, No. 25-CV-
7 06924-EMC, 2025 WL 2637503, at *8–10 (N.D. Cal. Sept. 12, 2025); *Solano v. Robbins*, No.
8 1:25-CV-01823-EPG-HC, 2025 WL 3718831 (E.D. Cal. Dec. 23, 2025); *Claudia Patricia*
9 *Moreno Vergel v. Chestnut*, No. 1:25-CV-01931-EPG-HC, 2026 WL 32848 (E.D. Cal. Jan. 6,
10 2026); *Amandeep Singh v. Albarran*, No. 1:25-CV-01788-CDB (HC), 2026 WL 74011 (E.D. Cal.
11 Jan. 9, 2026); *R.I. v. Wofford*, No. 1:25-CV-01637-KES-SKO (HC), 2025 WL 3768205 (E.D.
12 Cal. Dec. 31, 2025).

13 45. That principle applies here. Petitioner was not kept in uninterrupted border
14 detention from the time of her parole until the present. Rather, DHS paroled Petitioner into the
15 United States, permitted her to live in the community for nearly two years, and then re-detained
16 her in the interior. On these facts, her present custody posture is governed by § 1226, not § 1225.

17 46. Yet the Immigration Judge denied Petitioner’s request for custody redetermination
18 on the threshold legal conclusion that Petitioner’s parole was revoked or terminated, that she
19 reverted to applicant-for-admission status, and that she is subject to mandatory detention under
20 section 235(b)(2) of the Immigration and Nationality Act.

21 47. That conclusion rests on the erroneous premise that DHS may revive border-
22 detention authority after paroling a person into the United States and allowing her to reside at
23 liberty in the interior of the United States. But once Petitioner was paroled into the United States
24 and permitted to live in the community for nearly two years, DHS could not lawfully continue to
25 treat her as though she remained in the threshold inspection posture governed by § 1225. Her
26 detention instead had to proceed, if at all, under § 1226 and the individualized custody process
27 that statute presupposes.

28 PETITION FOR WRIT OF HABEAS CORPUS

1 48. Accordingly, Petitioner’s present detention under a no-bond § 235 framework is
2 unlawful. Because Petitioner’s custody is governed by § 1226, she was entitled to a meaningful
3 individualized custody determination rather than a categorical denial of bond based on parole
4 termination and applicant-for-admission status.

5
6 **Petitioner’s Humanitarian Parole Created a Constitutionally Protected Liberty**
7 **Interest**

8 49. The Due Process Clause protects “freedom from imprisonment—from
9 government custody, detention, or other forms of physical restraint” as a core liberty interest.
10 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). And “[l]iberty is the norm, and detention prior to
11 trial or without trial is the carefully limited exception.” *Morrissey v. Brewer*, 408 U.S. 471, 482
12 (1972).

13 50. Once the government affirmatively releases a person from physical custody and
14 allows them to resume ordinary life in the community—subject, at most, to reporting
15 conditions—that release gives rise to a protected “conditional liberty” interest. *Morrissey* held
16 that a parolee’s conditional freedom cannot be revoked without due process. 408 U.S. at 482.
17 *Gagnon v. Scarpelli* extended the same principle to probationers. 411 U.S. 778, 781–82 (1973).
18 And *Young v. Harper* confirmed that even a pre-parole release program creates a liberty interest
19 protected by due process. 520 U.S. 143, 152 (1997).

20 51. Courts of appeals have consistently applied these principles to liberty revocations,
21 including in contexts analogous to immigration re-detention. The First Circuit has explained that
22 conditional release “falls squarely within the scope of the liberty interests recognized in
23 *Morrissey*.” *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010). The D.C. Circuit
24 has concluded that “one free of physical confinement—even if that freedom is lawfully
25 revocable—has a liberty interest that entitles him to constitutional due process before he is re-
26 incarcerated.” *Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017). And the Ninth
27 Circuit has held in the mistaken-release context that “once a prisoner is released, the liberty
28

1 interest is triggered, and he cannot be returned to custody absent due process.” *Johnson v.*
2 *Williford*, 682 F.2d 868, 873 (9th Cir. 1982).

3 52. Those principles apply here. Petitioner was paroled into the United States on
4 humanitarian parole and permitted to live freely in the community for nearly two years. During
5 that time, Petitioner lived openly, worked, and remained available to immigration authorities.
6 Once the government paroled Petitioner into the United States and allowed her to live in the
7 community, that liberty could not be revoked arbitrarily or without process.

8 53. District courts in this Circuit have applied these settled principles directly to
9 humanitarian parole and post-release immigration re-detention. In *Lozada v. LaRose*, the
10 Southern District of California held that, “having been previously released on humanitarian
11 parole, Petitioner had a protected liberty interest in remaining free from detention.” 2026 U.S.
12 Dist. LEXIS 12973, at *6. The court further held that the government’s revocation of parole
13 “without notification, reasoning, or an opportunity to be heard” violated due process. *Id.* at *7–
14 10. Other courts in this District have reached the same conclusion. See *Ibarras Vizcaino v. Noem*,
15 No. 3:26-cv-01219-RBM-MMP, 2026 WL 1238536 (S.D. Cal. Mar. 19, 2026); *Sanchez v.*
16 *LaRose*, No. 25-CV-2396-JES-MMP, 2025 WL 2770629 (S.D. Cal. Sept. 26, 2025); *Noori v.*
17 *LaRose*, No. 25-CV-2301-BAS-MMP, 2025 WL 2800149 (S.D. Cal. Sept. 30, 2025).

18 54. The same reasoning applies here. DHS previously paroled Petitioner into the
19 United States, allowed her to live in the community for nearly two years, and then re-detained
20 her without any individualized finding that she violated conditions, became a danger, or became
21 a flight risk. That re-detention deprived Petitioner of a protected liberty interest without the
22 process the Constitution requires.

23 **Petitioner’s Liberty Interest Did Not Expire Merely Because DHS Claims Her Parole**
24 **Expired or Was Terminated**

25 55. Respondents may argue that Petitioner’s humanitarian parole expired on June 12,
26 2025, or that the Notice to Appear served as written notice terminating parole under 8 C.F.R. §
27 212.5(e)(2)(i). But parole expiration or termination does not eliminate the constitutional problem.

1 DHS cannot use parole expiration, parole termination, or service of a charging document as a
2 default mechanism to re-detain a previously released person without a meaningful individualized
3 custody determination.

4 56. Under 8 C.F.R. § 212.5(e), parole may terminate automatically at the expiration of
5 the period for which parole was authorized, or it may be terminated upon written notice when the
6 purpose of parole has been accomplished or when DHS determines that humanitarian reasons or
7 significant public benefit no longer warrant continued presence. 8 C.F.R. § 212.5(e)(1), (e)(2)(i).
8 But nothing in that regulation authorizes DHS to re-detain a person previously released into the
9 community without due process, without any individualized assessment, and without any
10 showing that the person has become a danger or flight risk.

11 57. Courts have rejected the argument that a parolee's protected liberty interest
12 disappears merely because parole expired or could be terminated. In Ibarra Vizcaino, the
13 Southern District of California held that "numerous courts in the Ninth Circuit have found that
14 when a noncitizen is paroled under [8 C.F.R. § 212.5], [his] 'liberty interest does not expire along
15 with [his] parole.'" 2026 WL 1238536. The court granted habeas where DHS re-detained a
16 humanitarian parolee without notice, an individualized determination, or an opportunity to be
17 heard. *Id.*

18 58. Mohammadi is also instructive. There, the Southern District of California
19 considered DHS's argument that the petitioner's humanitarian parole had expired and that he was
20 properly detained under § 1225. The court rejected DHS's § 1225 argument and held that
21 because the petitioner had been residing in the United States for years under humanitarian parole
22 before being re-detained, "he is properly considered detained under § 1226 rather than § 1225."
23 Mohammadi, 2025 WL 3857491. The court further recognized that the parole-termination issue
24 required scrutiny under 8 C.F.R. § 212.5(e), rather than automatic acceptance of DHS's post-
25 detention characterization. *Id.*

26 59. Here, DHS appears to rely on the same theory: that Petitioner's parole expired or
27 was terminated by the charging document, causing her to revert to applicant-for-admission status

1 and mandatory detention. But DHS previously paroled Petitioner into the United States and
2 allowed her to live in the community for nearly two years. The Constitution required a
3 meaningful opportunity to contest re-detention before continued custody could be justified. DHS
4 could not simply rely on parole expiration or service of the Notice to Appear to impose
5 mandatory detention by default, and the Immigration Judge's threshold classification ruling did
6 not cure that defect because the court never reached danger, flight risk, or any ordinary custody
7 factors.

8 **Due Process Requires Neutral, Individualized Review Before DHS May Re-Detain a**
9 **Previously Released Noncitizen**

10 60. The due-process analysis is governed by *Mathews v. Eldridge*, which requires
11 courts to evaluate three factors: (1) the private interest affected; (2) the risk of erroneous
12 deprivation under the procedures used, and the likely value of additional safeguards; and (3) the
13 government's interest, including the administrative burden of additional procedures. 424 U.S.
14 319, 335 (1976). The Ninth Circuit applies this framework in liberty-revocation cases and has
15 held that "adequate, or due, process depends upon the nature of the interest affected. The more
16 important the interest and the greater the effect of its impairment, the greater the procedural
17 safeguards" required. *Haygood v. Younger*, 769 F.2d 1350, 1355–57 (9th Cir. 1985) (en banc)
18 (citing *Morrissey*, 408 U.S. at 481–82).

19 61. The private interest here is at its apex: freedom from civil incarceration.
20 *Zadvydas*, 533 U.S. at 690. The risk of error is acute when DHS re-detains a previously released
21 person based on internal decision-making alone—without notice, without a chance to contest the
22 basis for re-detention, and without neutral adjudication—especially where the person has a
23 demonstrated record of compliance in the community. And the government's legitimate interests
24 (flight prevention and community safety) are exactly the interests the § 1226(a) bond process is
25 designed to assess through individualized adjudication.

26 62. Under *Mathews*, the Constitution therefore requires a meaningful, neutral custody
27 determination before DHS may revoke a person's conditional liberty and return them to civil

1 immigration detention following a period of community release—at minimum through the bond-
2 hearing process that § 1226(a) and its regulations contemplate. *Morrissey*, 408 U.S. at 482;
3 *Gagnon*, 411 U.S. at 782; *Espinoza*, 2025 WL 2675785, at *14; *Pinchi*, 2025 WL 2084921, at
4 *4–5; *Solano*, 2025 WL 3718831 (requiring neutral, individualized process before post-release
5 detention); *Moreno Vergel*, 2026 WL 32848 (same); *Amandeep Singh*, 2026 WL 74011 (same);
6 *R.I.*, 2025 WL 3768205 (same); *Hortua*, 2025 WL 3525916 (same).

7 **DHS Could Not Revoke Petitioner’s Release Absent a Material Change in Circumstances,**
8 **Which It Bore the Burden to Establish**

9 63. Although DHS regulations permit ICE to revoke a bond or order of recognizance,
10 that authority is not unbounded. Longstanding BIA precedent makes clear that revocation is
11 permissible only where there is a material change in circumstances supported by new facts
12 arising after release. *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981). The government
13 bears the burden to identify “new circumstances or information” not previously considered;
14 revocation based on the same facts or a reevaluation of prior information is unlawful.

15 64. Federal courts strictly enforce this limitation. Where DHS cannot point to a
16 genuine, post-release change in flight risk or danger, re-detention violates both the INA and due
17 process. *Panosyan v. Mayorkas*, 854 F. App’x 787, 788 (9th Cir. 2021); *Saravia v. Sessions*, 280
18 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), aff’d, 905 F.3d 1137 (9th Cir. 2018). A mere shift in
19 DHS’s legal interpretation, internal policy, or custodial preference does not constitute a material
20 change. *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1094–95 (E.D. Cal. 2025).

21 65. Here, DHS has identified no new facts arising after Petitioner’s parole into the
22 United States that would justify renewed incarceration. Petitioner was previously paroled into the
23 United States, lived openly in the community for nearly two years, worked, and remained
24 available to immigration authorities. Petitioner has no criminal history and no prior immigration
25 detention history. At no point has any neutral adjudicator found that she poses a danger to the
26 community or a flight risk.

1 66. DHS's decision to re-detain Petitioner in May 2026 was not accompanied by any
2 individualized finding of danger, flight risk, violation of release conditions, or other post-release
3 conduct that would constitute a material change in circumstances. To the contrary, when
4 Petitioner sought custody redetermination, the Immigration Judge denied bond based on the
5 conclusion that Petitioner's parole was revoked or terminated and that she reverted to applicant-
6 for-admission status subject to mandatory detention under INA § 235(b)(2)(A).

7 67. That kind of categorical re-detention, untethered to any identified new conduct or
8 individualized change in circumstances, cannot satisfy the requirement of a material change
9 justifying revocation of a prior release. Respondents may not rely on parole expiration, parole
10 termination, or service of a charging document to re-impose detention after previously paroling
11 Petitioner into the United States and allowing her to live in the community.

12 68. Here, the record demonstrates that Petitioner was previously paroled into the
13 United States, lived openly in the community for nearly two years, has no criminal history, and
14 has no prior immigration detention history. These facts reinforce why § 1226(a)'s individualized
15 framework governs and why DHS's abrupt re-detention cannot be justified through continued
16 confinement.

17 Because DHS Failed to Provide Due Process and Failed to Establish Any Basis for Re-Detention,
18 Immediate Release is Required

19 69. Because DHS re-detained Petitioner without the individualized process due
20 process requires—and because DHS failed to establish any material change in circumstances
21 justifying revocation of her prior liberty—continued detention is unlawful. At this stage, the
22 Constitution does not permit DHS to cure those violations through a custody proceeding that
23 stops at threshold classification and never reaches danger, flight risk, or the ordinary custody
24 factors. Where liberty has been revoked categorically and without authority, restoration of that
25 liberty—not retroactive procedure—is required. Immediate release is therefore the only
26 constitutionally adequate remedy.

1 70. Continued detention following an unconstitutional deprivation of liberty is itself a
2 constitutional injury. The Supreme Court has made clear that “[f]reedom from imprisonment—
3 from government custody, detention, or other forms of physical restraint—lies at the heart of the
4 liberty” protected by due process. *Zadvydas*, 533 U.S. at 690. And the Ninth Circuit has held that
5 once a person has been released from custody, the government may not reincarcerate him absent
6 constitutionally adequate process. *Johnson*, 682 F.2d at 873.

7 71. Courts in this District and throughout California consistently hold that where a
8 noncitizen has been affirmatively released into the community, later re-detained without a pre-
9 deprivation hearing, and where no material change in danger or flight risk exists, release—not a
10 retroactive bond hearing—is the appropriate remedy. See *Lozada v. LaRose*, 2026 U.S. Dist.
11 LEXIS 12973, at *10–11; *Ibarras Vizcaino*, 2026 WL 1238536; *Noori*, 2025 WL 2800149;
12 *Sanchez*, 2025 WL 2770629; *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019);
13 *Solano*, 2025 WL 3718831; *Moreno Vergel*, 2026 WL 32848; *R.I.*, 2025 WL 3768205.

14 72. These decisions reflect a settled principle: once DHS has deprived a person of
15 liberty without the process due, and once the government cannot substantively justify that
16 deprivation, continued detention compounds the constitutional violation rather than cures it.

17 73. Here, the record demonstrates that Petitioner poses no danger to the community
18 and no risk of flight. She lived openly in the community following her parole into the United
19 States, has no criminal history, no prior immigration detention history, and no record of
20 noncompliance with any reporting or release condition. DHS has never identified any material
21 change in circumstances showing that Petitioner became a danger or flight risk after it paroled
22 her into the United States.

23 74. Accordingly, because (1) DHS revoked Petitioner’s liberty without a pre-
24 deprivation hearing, (2) DHS failed to establish any material change in circumstances justifying
25 re-detention, and (3) no neutral adjudicator has made any individualized finding that Petitioner
26 poses a danger to the community or a flight risk, habeas relief is required. Any lesser remedy
27

1 would sanction ongoing detention unsupported by statute or the Constitution after nearly two
2 years of liberty in the community.

3 **CLAIMS FOR RELIEF**

4 **COUNT ONE**

5 ***(Unlawful Detention Under the Immigration and Nationality Act and the***
6 ***Administrative Procedure Act)***

7 75. Petitioner re-alleges and incorporates by reference all preceding paragraphs as
8 though fully set forth herein.

9 76. Petitioner Yuliana Tahina Aleman Gonzalez is currently detained in ICE custody
10 at the Otay Mesa Detention Center. Respondents have continued to detain Petitioner without
11 providing any meaningful individualized custody determination. To the extent Respondents
12 contend that 8 U.S.C. § 1225(b) governs Petitioner's detention, that position is contrary to the
13 Immigration and Nationality Act, DHS's own regulations, and binding precedent.

14 77. Section 1225(b) authorizes mandatory detention only during the narrow period of
15 initial border inspection and credible-fear processing. *Jennings v. Rodriguez*, 583 U.S. 281, 303
16 (2018); *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 109–10 (2020).

17 78. Once DHS affirmatively releases a noncitizen from physical custody following an
18 initial apprehension and permits that individual to reside at liberty in the community—subject, at
19 most, to supervision—detention authority is governed exclusively by 8 U.S.C. § 1226(a). Section
20 1226(a) authorizes release on bond or recognizance and guarantees access to an individualized
21 custody determination before a neutral adjudicator. *Jennings v. Rodriguez*, 583 U.S. 281, 306
22 (2018); *Matter of E-R-M- & L-R-M-*, 25 I. & N. Dec. 520, 520 (BIA 2011).

23 79. Petitioner was previously paroled into the United States on humanitarian parole.
24 Following that parole, Petitioner lived in the United States for nearly two years, worked, and
25 resided openly in the community.

26 80. After nearly two years in the community following that parole, DHS re-detained
27 Petitioner in May 2026. At that point, DHS could not lawfully continue to rely on § 1225(b) as

28 **PETITION FOR WRIT OF HABEAS CORPUS**

1 though Petitioner had remained in uninterrupted border-processing custody. Any subsequent
2 detention decision could proceed only under § 1226(a)'s discretionary framework.

3 81. Courts across this Circuit have recognized that once DHS releases a noncitizen
4 from an initial § 1225 posture and permits that person to live in the community, later detention
5 must proceed under § 1226(a), not § 1225. See *Esquivel Pacheco v. LaRose*, No. 3:25-cv-2421-
6 JO-AHG, 2026 WL 242300 (S.D. Cal. Jan. 29, 2026); *Mohammadi v. LaRose*, No. 3:25-cv-3450-
7 JES-BJW, 2025 WL 3857491 (S.D. Cal. Dec. 26, 2025); *Salcedo Aceros v. Kaiser*, 2025 WL
8 2637503, at *8–10 (N.D. Cal. Sept. 12, 2025); *Hernandez v. Wofford*, 2025 WL 2420390, at *12–
9 15 (E.D. Cal. Aug. 21, 2025); *Espinoza v. Kaiser*, 2025 WL 2675785, at *5–8 (E.D. Cal. Sept.
10 18, 2025).

11 82. Regardless of whether DHS now contends that Petitioner's parole expired or was
12 terminated through service of the Notice to Appear, Petitioner's current custody posture is
13 governed by § 1226(a). Once Petitioner was paroled into the United States and permitted to live
14 in the community for nearly two years, § 1225(b)'s border-processing detention authority no
15 longer supplied a lawful basis for renewed incarceration.

16 83. Respondents nevertheless continued to treat Petitioner as detained under a no-
17 bond § 235 framework. When Petitioner sought custody redetermination, the Immigration Judge
18 denied bond based on the threshold conclusion that Petitioner's parole was revoked or terminated
19 and that she reverted to applicant-for-admission status subject to mandatory detention under INA
20 § 235(b)(2)(A). As a result, Petitioner was categorically denied access to any meaningful
21 individualized custody determination.

22 84. Respondents' continued reliance on § 1225(b) collapses the statutory distinction
23 between §§ 1225 and 1226, contravenes controlling Supreme Court and Ninth Circuit authority,
24 and disregards DHS's own regulatory framework recognizing that noncitizens detained under §
25 1226(a) are eligible for bond and bond redetermination. See 62 Fed. Reg. 10312, 10323 (Mar. 6,
26 1997).

1 85. Because Petitioner was previously paroled into the United States and then
2 permitted to live in the community for nearly two years, § 1225(b) no longer provides lawful
3 detention authority. Any later detention could proceed, if at all, only under § 1226(a)'s
4 discretionary framework.

5 86. Respondents' refusal to provide Petitioner an individualized custody
6 determination under the proper statutory framework violates the Immigration and Nationality Act
7 and constitutes agency action that is "not in accordance with law" and "in excess of statutory
8 jurisdiction, authority, or limitations" in violation of the Administrative Procedure Act, 5 U.S.C.
9 § 706(2).

10 **COUNT TWO**

11 ***(Violation of Fifth Amendment's Due Process Clause)***

12 87. Petitioner re-alleges and incorporates by reference all preceding paragraphs as
13 though fully set forth herein.

14 88. The Due Process Clause of the Fifth Amendment protects all persons in the
15 United States from deprivation of liberty without constitutionally adequate procedures.
16 "Freedom from imprisonment—from government custody, detention, or other forms of physical
17 restraint—lies at the heart of the liberty" safeguarded by the Constitution. *Zadvydas v. Davis*, 533
18 U.S. 678, 690–93 (2001).

19 89. When DHS affirmatively releases a noncitizen—whether on parole, bond, or
20 recognizance—that conditional liberty becomes a protected interest that may not be terminated
21 without due process of law. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Gagnon v. Scarpelli*,
22 411 U.S. 778, 781–82 (1973); *Young v. Harper*, 520 U.S. 143, 152 (1997). The Ninth Circuit
23 likewise holds that a person living freely in the community "cannot be returned to custody absent
24 due process." *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982).

25 90. Federal courts have repeatedly recognized that immigration release is analogous
26 to other forms of conditional liberty and triggers the same constitutional protections. See
27 *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010); *Ortega v. Bonnar*, 415 F. Supp.

28 **PETITION FOR WRIT OF HABEAS CORPUS**

3d 963, 969 (N.D. Cal. 2019); *Romero v. Kaiser*, 2022 WL 1443250, at *2–3 (N.D. Cal. May 6, 2022); *Vargas v. Jennings*, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020).

91. Courts across this Circuit have consistently held that DHS may not re-detain a noncitizen who was previously released into the community without notice, materially changed circumstances, and a hearing before a neutral adjudicator. See *Lozada v. LaRose*, 2026 U.S. Dist. LEXIS 12973, at *6–11; *Ibarras Vizcaino v. Noem*, No. 3:26-cv-01219-RBM-MMP, 2026 WL 1238536 (S.D. Cal. Mar. 19, 2026); *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032–38 (N.D. Cal. 2025); *Espinoza v. Kaiser*, 2025 WL 2675785, at *5–8 (E.D. Cal. Sept. 18, 2025); *Enamorado v. Kaiser*, 2025 WL 1382859, at *3 (N.D. Cal. May 12, 2025); *Doe v. Becerra*, 2025 WL 691664, at *4 (E.D. Cal. Mar. 3, 2025); *Romero*, 2022 WL 1443250, at *3–4; *Ortega*, 415 F. Supp. 3d at 971–73; *Meza v. Bonnar*, 2018 WL 2554572, at *2–3 (N.D. Cal. June 4, 2018).

92. DHS re-detained Petitioner Yuliana Tahina Aleman Gonzalez without identifying any new or materially changed circumstances that would justify taking her back into custody.

93. Petitioner had lived in the community for nearly two years following her parole into the United States. She lived openly in the community, worked, had no criminal history, and had no prior immigration detention history. Her re-detention occurred in May 2026, when immigration agents detained her in the interior after she left work. No violation, misconduct, or individualized changed factual circumstance was identified.

94. Instead of providing any meaningful individualized custody review, Respondents treated Petitioner as detained under a mandatory-detention framework. When Petitioner sought custody redetermination, the Immigration Judge denied bond based on the threshold conclusion that Petitioner’s parole was revoked or terminated and that she reverted to applicant-for-admission status subject to mandatory detention under INA § 235(b)(2)(A). The Immigration Judge never reached danger, flight risk, or any ordinary custody factors.

95. Under the framework set forth in *Mathews v. Eldridge*, all three factors confirm that DHS violated Petitioner’s due-process rights. 424 U.S. 319, 335 (1976).

1 96. The private interest at stake is at its apex: freedom from civil incarceration.
2 *Zadvydas*, 533 U.S. at 690. Following her parole into the United States, Petitioner lived in the
3 community for nearly two years. Re-detention abruptly extinguished that settled liberty and
4 returned her to civil incarceration without any individualized finding that detention was
5 necessary.

6 97. The risk of erroneous deprivation is exceptionally high where, as here, DHS re-
7 detains an individual through unilateral internal decision-making—without notice, without
8 identifying any new factual basis, and without submission to neutral adjudicatory review. No
9 neutral review occurred before Petitioner was returned to custody, and when she later sought
10 custody redetermination, the Immigration Judge denied bond based on mandatory detention
11 rather than making any individualized assessment of danger or flight risk.

12 98. The government’s interests are minimal where DHS had already paroled
13 Petitioner into the United States and thereafter allowed her to remain in the community for
14 nearly two years. Petitioner has no criminal history, no prior immigration detention history, and
15 no record of noncompliance with any reporting or release condition. Re-detaining Petitioner after
16 nearly two years of community liberty, without any identified material change in circumstances,
17 does not further any legitimate interest that could not be addressed through the ordinary custody
18 process.

19 99. Nor does DHS have any legitimate interest in bypassing the statutory and
20 constitutional procedures that govern custody decisions. “The government has no legitimate
21 interest in an erroneous deprivation of liberty.” *Mathews*, 424 U.S. at 348. Courts in this Circuit
22 have repeatedly recognized that providing a § 1226(a) bond hearing is not an administrative
23 burden but the ordinary process required by law. See *Pinchi*, 2025 WL 2084921, at *4–5;
24 *Espinoza*, 2025 WL 2675785, at *14; *Hernandez v. Wofford*, 2025 WL 2420390, at *12–15 (E.D.
25 Cal. Aug. 21, 2025).

26 100. Less restrictive alternatives—including bond or supervised release—were readily
27 available and would have fully served any legitimate government objective. The administrative
28

1 burden of providing a brief custody hearing is negligible compared to the profound deprivation
2 of liberty at stake.

3 101. Because DHS revoked Petitioner's liberty without any identified material change
4 in circumstances, and because the Immigration Judge never reached danger, flight risk, or any of
5 the ordinary custody factors, her re-detention violates the Fifth Amendment's Due Process
6 Clause.

7 **PRAYER FOR RELIEF**

8 102. WHEREFORE, Petitioner Yuliana Tahina Aleman Gonzalez respectfully requests
9 that this Court grant the following relief.

- 10 a. Declare that Petitioner's continued detention under 8 U.S.C. § 1225(b) is unlawful
11 because DHS previously affirmatively released her into the community, placed her into
12 removal proceedings under INA § 240, and that her custody—if any—is governed
13 exclusively by 8 U.S.C. § 1226(a).
- 14 b. Declare that DHS's re-detention of Petitioner without notice, without any material change
15 in circumstances, and without an individualized custody determination violates the
16 Immigration and Nationality Act, the Administrative Procedure Act, and the Due Process
17 Clause of the Fifth Amendment.
- 18 c. Order the immediate release of Petitioner from immigration detention.
- 19 d. In the alternative, order that Petitioner be provided an individualized bond hearing before
20 a neutral adjudicator within seven (7) days, at which the government bears the burden of
21 demonstrating by clear and convincing evidence that Petitioner poses a risk of flight or
22 danger to the community and that continued detention is the least restrictive means of
23 achieving a legitimate governmental interest.
- 24 e. Enjoin Respondents from transferring Petitioner out of this District or removing her from
25 the United States while this petition is pending and during any ordered proceedings.
- 26
27
28

- 1 f. Enjoin Respondents from re-arresting or re-detaining Petitioner on the basis of
2 immigration status absent a lawful custody determination consistent with this Court's
3 order and applicable statutory and constitutional requirements.
4 g. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act,
5 28 U.S.C. § 2412.
6 h. Grant such other and further relief as this Court deems just and proper.

7
8 **VERIFICATION PURSUANT TO 28 U.S.C. 2242**

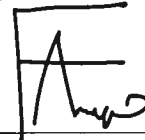
9 I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's
10 attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those
11 discussions, I hereby verify that the factual statements made in the attached Petition for Writ of
12 Habeas Corpus are true and correct to the best of my knowledge.

13
14 Exhibits:

- 15 A – NTA, dated June 1, 2026
16 B – Bond Denial Order, dated June 5, 2026

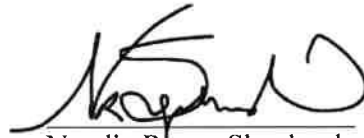
17 DATED: June 8, 2026

18
19 Respectfully Submitted,

20
21 

22 Frances Arroyo #276747
23 Los Angeles Legal Advocates
24 farroyo@lalegaladvocates.com
25 1025 W 190th St
26 Suite 400
27 Gardena, CA 90248

28 PETITION FOR WRIT OF HABEAS CORPUS



Natalie Renee Shepherd
Of Counsel
(805) 907-5309
NatalieReneeShepherd@gmail.com

PETITION FOR WRIT OF HABEAS CORPUS